

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1195

Citations Affected: IC 6-1.1-10-16.7; IC 6-2.5-6-1; IC 6-3.5-7-5; IC 6-3.5-7-22.5; IC 36-2-6-22; IC 36-7-26; noncode.

Synopsis: Local taxation. Authorizes Randolph County to impose an additional 0.25% county economic development income tax (CEDIT) rate for the purposes of financing, constructing, acquiring, renovating, and equipping the county courthouse and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions. Provides that the additional rate may also be used for the repayment of bonds issued, or leases entered into, for those purposes. Provides that the county's CEDIT rate plus the county's county adjusted gross income tax (CAGIT) rate may not exceed 1.5% if the county has imposed the additional CEDIT rate authorized by this bill. Authorizes the county to adopt an ordinance that makes the CEDIT rate increase effective January 1, 2002. Provides that the property tax exemption for real property containing certain improvements that were constructed, rehabilitated, or acquired under the federal low income housing tax credit and for which the owner of the property has entered into an agreement to make payments in lieu of taxes applies in Dearborn County. (Under existing law, the exemption applies only in Marion County.) Allows South Bend, Fort Wayne, and Evansville to establish economic development project districts. Provides that the Fort Wayne and South Bend districts must contain a commercial retail facility with at least 500,000 square feet. Provides that the Evansville district may not contain territory outside the boundaries of a redevelopment area established within the central business district before 1985. Provides that sales tax increment financing may be used only for stated purposes. Provides that not more than 50% of the net increment each year may be used for these purposes. Provides that not more than a total of \$1,000,000 of sales tax revenue increment may be captured during the existence of the district. (This conference committee report deletes the content of the existing bill concerning elections and inserts the provisions described above.)

Effective: Upon passage; July 1, 2001; January 1, 2002.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1195 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 6-1.1-10-16.7, AS ADDED BY P.L.19-2000,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JANUARY 1, 2002]: Sec. 16.7. Real property is exempt from property
- 8 taxation if:
- 9 (1) the real property is located within:
- 10 (A) a county containing a consolidated city; or
- 11 (B) a county having a population of more than thirty-eight
- 12 thousand five hundred (38,500) but less than thirty-nine
- 13 thousand (39,000);
- 14 (2) the real property is owned by an Indiana corporation;
- 15 (3) the improvements on the real property were constructed,
- 16 rehabilitated, or acquired for the purpose of providing housing to
- 17 income eligible persons under the federal low income housing tax
- 18 credit program under 26 U.S.C. 42;
- 19 (4) the real property is subject to an extended use agreement under
- 20 26 U.S.C. 42 as administered by the Indiana housing finance
- 21 authority; and
- 22 (5) the owner of the property has entered into an agreement to

make payments in lieu of taxes under **IC 36-2-6-22** or
IC 36-3-2-11.

SECTION 2. IC 6-2.5-6-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) Each person liable for
collecting the state gross retail or use tax shall file a return for each
calendar month and pay the state gross retail and use taxes that the
person collects during that month. A person shall file the person's
return for a particular month with the department and make the person's
tax payment for that month to the department not more than thirty (30)
days after the end of that month, if that person's average monthly
liability for collections of state gross retail and use taxes under this
section as determined by the department for the preceding calendar
year did not exceed one thousand dollars (\$1,000). If a person's average
monthly liability for collections of state gross retail and use taxes under
this section as determined by the department for the preceding calendar
year exceeded one thousand dollars (\$1,000), that person shall file the
person's return for a particular month and make the person's tax
payment for that month to the department not more than twenty (20)
days after the end of that month.

(b) If a person files a combined sales and withholding tax report and
either this section or IC 6-3-4-8.1 requires sales or withholding tax
reports to be filed and remittances to be made within twenty (20) days
after the end of each month, then the person shall file the combined
report and remit the sales and withholding taxes due within twenty (20)
days after the end of each month.

~~(b) Instead of twelve (12) monthly reporting periods required under
subsection (a), the department may permit a person to divide a year into
a different number of reporting periods. Each return and payment for
those reporting periods is due not more than thirty (30) days after the
end of the respective period.~~

(c) Instead of the reporting periods required under subsection (a), the
department may permit a retail merchant to report and pay the
merchant's state gross retail and use taxes for a period covering:

(1) a calendar year, if the retail merchant's average monthly state
gross retail and use tax liability in the previous calendar year does
not exceed ten dollars (\$10); **or**

(2) a calendar half year, if the retail merchant's average monthly
state gross retail and use tax liability in the previous calendar year
does not exceed twenty-five dollars (\$25). **or**

~~(3) a calendar quarter, if the retail merchant's average monthly
state gross retail and use tax liability in the previous calendar year
does not exceed seventy-five dollars (\$75).~~

A retail merchant using a reporting period allowed under this
subsection must file the merchant's return and pay the merchant's tax
for a reporting period ~~no~~ **not** later than the last day of the month
immediately following the close of that reporting period.

(d) If a retail merchant reports the merchant's gross income tax, or the
tax the merchant pays in place of the gross income tax, over a fiscal
year or fiscal quarter not corresponding to the calendar year or calendar
quarter, the merchant may, without prior departmental approval, report
and pay the merchant's state gross retail and use taxes over the

1 merchant's fiscal period that corresponds to the calendar period the
 2 merchant is permitted to use under subsection (c). However, the
 3 department may, at any time, require the retail merchant to stop using
 4 the fiscal reporting period.

5 (e) If a retail merchant files a combined sales and withholding tax
 6 report, the reporting period for the combined report is the shortest
 7 period required under:

- 8 (1) this section;
- 9 (2) IC 6-3-4-8; or
- 10 (3) IC 6-3-4-8.1.

11 (f) If the department determines that a person's:

- 12 (1) estimated monthly gross retail and use tax liability for the
 13 current year; or
- 14 (2) average monthly gross retail and use tax liability for the
 15 preceding year;

16 exceeds ten thousand dollars (\$10,000) the person shall pay the
 17 monthly gross retail and use taxes due by electronic fund transfer (as
 18 defined in IC 4-8.1-2-7) or by delivering in person or by overnight
 19 courier a payment by cashier's check, certified check, or money order
 20 to the department. The transfer or payment shall be made on or before
 21 the date the tax is due.

22 ~~(g) If a person's gross retail and use tax payment is made by~~
 23 ~~electronic fund transfer, the taxpayer is not required to file a monthly~~
 24 ~~gross retail and use tax return. However, the person shall file a~~
 25 ~~quarterly gross retail and use tax return before the twentieth day~~
 26 ~~following the end of each calendar quarter.~~

27 SECTION 3. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in
 29 subsection (c), the county economic development income tax may be
 30 imposed on the adjusted gross income of county taxpayers. The entity
 31 that may impose the tax is:

- 32 (1) the county income tax council (as defined in IC 6-3.5-6-1) if
 33 the county option income tax is in effect on January 1 of the year
 34 the county economic development income tax is imposed;
- 35 (2) the county council if the county adjusted gross income tax is in
 36 effect on January 1 of the year the county economic development
 37 tax is imposed; or
- 38 (3) the county income tax council or the county council, whichever
 39 acts first, for a county not covered by subdivision (1) or (2).

40 To impose the county economic development income tax, a county
 41 income tax council shall use the procedures set forth in IC 6-3.5-6
 42 concerning the imposition of the county option income tax.

43 (b) Except as provided in subsections (c), ~~and~~ (g), **(j), and (k)**, the
 44 county economic development income tax may be imposed at a rate of:

- 45 (1) one-tenth percent (0.1%);
- 46 (2) two-tenths percent (0.2%);
- 47 (3) twenty-five hundredths percent (0.25%);
- 48 (4) three-tenths percent (0.3%);
- 49 (5) thirty-five hundredths percent (0.35%);
- 50 (6) four-tenths percent (0.4%);
- 51 (7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);
on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), ~~or~~ (i), (j), or (k), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600). In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%), if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than

twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

SECTION 4. IC 6-3.5-7-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.5. (a) This section applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping the county courthouse and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse and

renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions.

(e) The county treasurer shall establish a county courthouse revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county courthouse revenue fund before making a certified distribution under section 11 of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the state board of tax commissioners in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) A county described in subsection (a) possesses:

- (1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 for a prior year; and
- (2) unique capital financing needs due to the imminent transfer from the governing board of the county hospital of facilities no longer needed for hospital purposes and the need to undertake immediate improvements in order to make those facilities suitable for use by the county for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions.

SECTION 5. IC 36-2-6-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is not located in a county containing a consolidated city.

(d) Subject to the approval of a property owner, the fiscal body of a county may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect

1 until repealed or modified by the legislative body, subject to the
2 approval of the property owner.

3 (e) The PILOTS must be calculated so that the PILOTS are in an
4 amount equal to the amount of property taxes that would have
5 been levied upon the real property described in subsection (d) if the
6 property were not subject to an exemption from property taxation.

7 (f) PILOTS shall be imposed in the same manner as property
8 taxes and shall be based on the assessed value of the real property
9 described in subsection (d). The township assessors shall assess the
10 real property described in subsection (d) as though the property
11 were not subject to an exemption.

12 (g) PILOTS collected under this section shall be distributed in
13 the same manner as if they were property taxes being distributed
14 to taxing units in the county.

15 (h) PILOTS shall be due as set forth in the ordinance and bear
16 interest, if unpaid, as in the case of other taxes on property.
17 PILOTS shall be treated in the same manner as taxes for purposes
18 of all procedural and substantive provisions of law.

19 SECTION 6. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2001]: Sec. 1. This chapter applies to **the**
21 **following:**

22 (1) A city having a population of more than seventy-five thousand
23 (75,000) but less than ninety thousand (90,000).

24 (2) A city having a population of more than ninety thousand
25 (90,000) but less than one hundred ten thousand (110,000).

26 (3) A city having a population of more than one hundred fifty
27 thousand (150,000) but less than five hundred thousand
28 (500,000).

29 (4) A city having a population of more than one hundred
30 twenty thousand (120,000) but less than one hundred fifty
31 thousand (150,000).

32 SECTION 7. IC 36-7-26-14 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) Whenever a
34 commission determines that the redevelopment and economic
35 development of an area situated within the commission's jurisdiction
36 may require the establishment of a district, the commission shall cause
37 to be assembled data sufficient to make the determinations required
38 under section 15 of this chapter, including the following:

39 (1) Maps and plats showing the boundaries of the proposed district.

40 (2) A complete list of street names and the range of street numbers
41 of each street situated in the proposed district.

42 (3) A plan for the redevelopment and economic development of the
43 proposed district. The plan must describe the local public
44 improvements necessary or appropriate for the redevelopment or
45 economic development.

46 (b) For a city described in section 1(2) or 1(3) of this chapter, the
47 proposed district must contain a commercial retail facility with at
48 least five hundred thousand (500,000) square feet, and any
49 distributions from the fund must be used in the area described in
50 subsection (a) or in areas that directly benefit the area described
51 in subsection (a).

(c) For a city described in section 1(4) of this chapter, the proposed district may not contain any territory outside the boundaries of a redevelopment area established within the central business district of the city before 1985.

SECTION 8. IC 36-7-26-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. (a) Before the first business day in October of each year, the board shall require the department to calculate the net increment for the preceding state fiscal year. The department shall transmit to the board a statement as to the net increment in sufficient time to permit the board to review the calculation and permit the transfers required by this section to be made on a timely basis.

(b) There is established a sales tax increment financing fund to be administered by the treasurer of state. The fund is comprised of two (2) accounts called the net increment account and the credit account.

(c) On the first business day in October of each year, that portion of the net increment calculated under subsection (a) that is needed:

(1) to pay debt service on the bonds issued under section 24 of this chapter or to pay lease rentals under section 24 of this chapter; and

(2) to establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission;

shall be transferred to and deposited in the fund and credited to the net increment account. Money credited to the net increment account is pledged to the purposes described in subdivisions (1) and (2), subject to the other provisions of this chapter.

(d) On the first business day of October in each year, the remainder of:

(1) eighty percent (80%) of the gross increment; minus

(2) the amount credited to the net increment account on the same date;

shall be transferred and credited to the credit account.

(e) The remainder of:

(1) the gross increment; minus

(2) the amounts credited to the net increment account and the credit account;

shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(f) A city described in section 1(2), 1(3), or 1(4) of this chapter may receive not more than fifty percent (50%) of the net increment each year. During the time a district exists in a city described in section 1(2), 1(3), or 1(4) of this chapter, not more than a total of one million dollars (\$1,000,000) of net increment may be paid to the city described in section 1(2), 1(3), or 1(4) of this chapter.

~~(f)~~ (g) The auditor of state shall disburse all money in the fund that is credited to the net increment account to the commission in equal semiannual installments on November 30 and May 31 of each year.

SECTION 9. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement

under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed twenty (20) years, nor may the term of any lease agreement entered into under this section exceed twenty (20) years. The commission shall transmit to the board a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the treasurer of state the money disbursed from the fund that is credited to the net increment account that exceeds the amount needed to pay debt service or lease rentals and to establish and maintain a debt service reserve under this chapter in the prior year and before May 31 of that year. Amounts remitted under this subsection shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(c) The commission in a city described in section 1(2) of this chapter may distribute money from the fund only for road, interchange, and right-of-way improvements and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(d) The commission in a city described in section 1(3) of this chapter may distribute money from the fund only for the following purposes:

(1) For road, interchange, and right-of-way improvements and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(2) For the demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(e) The commission in a city described in section 1(4) of this chapter may distribute money from the fund only for the following purposes:

(1) For:

(A) the acquisition, demolition, and renovation of property; and

(B) site preparation and financing;

related to the development of housing in the district.

(2) For physical improvements or alterations of property that enhance the commercial viability of the district.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-7-5, as amended by this act, the county council of a county described in IC 6-3.5-7-5(j), as added by this act, may adopt an ordinance to increase the county's county economic development income tax rate after March 31, 2001.

(b) Notwithstanding IC 6-3.5-7-5(e), an ordinance adopted under this SECTION takes effect January 1, 2002.

(c) This SECTION expires January 2, 2002.

SECTION 11. An emergency is declared for this act.

(Reference is to EHB 1195 as printed April 4, 2001.)

Conference Committee Report
on
Engrossed House Bill 1195

Signed by:

Representative Kromkowski
Chairperson

Senator Landske

Representative Richardson

Senator Sipes

House Conferees

Senate Conferees